IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

MONDAY, THE 10TH DECEMBER 2007 / 19TH AGRAHAYANA 1929

WP(C).No. 36430 of 2007(J)

TA.1124/2007 of DEBT RECOVERY TRIBUNAL, ERNAKULAM

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PETITIONER:

VAS PHARMACEUTICALS (INDIA) LTD.,
REPRESENTED BY ITS MANAGING DIRECTOR,
VASUDEVAN K.PANDALATH, THOPPIL ESTATE,
VYTTILA, COCHIN-19.

BY ADV. SRI.P.J.JOSEPH PANIKKASSERY

RESPONDENTS:

CENTRAL BANK OF INDIA,
M.G.ROAD, ERNAKULAM BRANCH.

BY ADV.SRI.DEVAN RAMACHANDRAN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

THOTTATHIL B. RADHAKRISHNAN, J.

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WP(C).No.36430 of 2007-J

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Dated this the 10th day of December, 2007.

JUDGMENT

1.O.S.362/1996 of the Sub Court, Ernakulam filed by the respondent against the petitioner was transferred to the Debts Recovery Tribunal. Going by paragraph 2 of the writ petition, that suit is for recovery of an amount of Rs.53 lakhs. The question whether the DRT has jurisdiction to entertain the claim on the ground that it was for an amount less than Rs.10 lakhs, was made subject matter of WP(C).No.9667/2001 filed by the petitioner. Thereupon, he filed R.P.No.232/2001 in that case. He then took up the matter to the Division Bench by filing W.A.No.3346/2001, which was dismissed as per Ext.P3 judgment dated 27-9-2001, holding that the learned single Judge has rightly relegated the parties to the Tribunal on

the question of objection as to jurisdiction on the ground that the claim is for an amount less than rupees ten lakhs. The Tribunal was directed to answer that issue one way or other, if it is raised. By Ext.P4 order dated 27-2-2002, i.e., more than 5½ years ago, that issue was answered against the writ petitioner.

2.This writ petition is filed seeking a direction to consider two documents, Exts.P1 and P2 before proceeding further with the case. The plea raised is that if Exts.P1 and P2 are looked into, the Tribunal would have to conclude that the claim of the Bank is less than rupees ten lakhs.

3.This is a classic case where the objects sought to be achieved by the legislation of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993(51/1993), have been defeated. A suit filed in the year 1996 and transferred to the Tribunal in 1997, is stated to be pending before the Tribunal. The very purpose of the

constitution of such a Tribunal is expeditious disposal of claims of banks and other financial institutions.

4.As already noticed, the admitted case of the petitioner is that the suit of the bank even before the Sub Court was for an amount of Rs.53 lakhs. Pecuniary jurisdiction is to be determined by the plaint claim and not by what would ultimately come out after trial. Exts.P1 and P2 are, therefore, wholly irrelevant to decide the question of jurisdiction. That apart, even if they are relevant, to re-open Ext.P4 order passed by the DRT more than 5 ½ years ago, on 27-2-2002, that too, following the directions of this Court in Ext.P3 judgment in the writ appeal, would be sheer failure of justice. This writ petition does not merit to be entertained and hence, it is dismissed in limine.

THOTTATHIL B. RADHAKRISHNAN,
Sha/ JUDGE.